



DEPARTMENT OF STATE
ACTION MEMORANDUM

S/S

21B
ARA
8/14

CONFIDENTIAL

August 14, 1978

TO: D - The Deputy Secretary

THROUGH: P - David D. Newsom
T - Lucy Wilson Benson
E - Richard N. Cooper

FROM: ARA - Viron P. Vaky
EB - Robert Hormats
HA - Patricia M. Derian

~~Department of State, A/GIS/IPS/SRP~~

~~Change is~~

~~() Release () Excise () Deny () Declassify~~

~~Exemptions b () () E.O. 13526 25x () ()~~

~~Declassify after~~

~~With concurrence of:~~

~~IPS by obtained not obt~~

~~Date~~

SUBJECT: Licenses for the Export of Certain Items
to Argentina

~~NSC Declassification Review [EO 13526]~~

~~DECLASSIFY IN PART~~

~~by John Powers on 2/16/2018~~

ISSUE FOR DECISION

Whether to approve licenses for the export of certain items to Argentina?

ESSENTIAL FACTORS

x There are now pending over 210 munitions list license requests, valued at \$145 million, and 29 commerce license requests, valued at \$31 million, for export to Argentina. These requests have not been approved because they involve equipment for the military or law enforcement authorities. ARA and EB have selected several of those requests for your decision at this time.

The Argentine government is irritated by our refusal to permit the export of these items and is angered by the public disclosure of the Ex-Im Bank's refusal to grant financing of the Allis-Chalmers project. The Argentine Foreign Minister delivered a formal note of protest to U.S. Ambassador Castro on August 3.

Some members of Congress have criticized the Department for withholding approval of these exports. Other members have supported the Department's actions as conforming with Sections 502B and 620B of the Foreign Assistance Act and with the human rights policy.

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The human rights situation in Argentina remains grave. Disappearances and arbitrary arrests continue. There has been little movement on our requests that the disappeared be accounted for and that the detained be granted due process. The invitation extended by the Argentine Government to the IAHRC has unacceptable conditions, although discussions are continuing with the IAHRC.

The cases submitted for your decision include (a more detailed description of these cases is attached at Tab 1; a description of other pending cases, not being forwarded for your decision, is attached at Tab 2):

Commerce Cases (i.e., non-munitions list)

- 1) Seven ambulance aircraft for the Argentine armed forces;
- 2) Miscellaneous spare parts and support equipment for civilian type aircraft operated by the armed forces;

Munitions List Cases

- 3) Miscellaneous spare parts and support equipment for military aircraft operated by the armed forces; and
- 4) Air Traffic Control Radar for controlling military and civilian aircraft.

As described below, there are differences of opinion among the bureaus on how to characterize these cases and on what action should be taken.

ARA

ARA believes that all of the cases presented to you should be licensed for export. They are safety related items which would be useful in ensuring the lives of the general public, e.g., radar for a Coast Guard plane which could be used in the rescue of ship wreck victims. To authorize issuance of these licenses would be consistent with our June approval of 19 other safety related cases, would be a positive gesture to the GOA and would respond to domestic pressure for release of the items. An additional

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consideration in the Air Traffic Control radar case is that it is a license renewal, excepted from the cut-off statutory Section 620B of the Foreign Assistance Act by the Brooke Amendment.

EB

EB believes that all of the cases should be licensed. EB has particular concerns about the Commerce cases, because they involve non-munitions list items:

- Unlike the situation of munition list items, no present or proposed provision of law would forbid non-munitions list exports to the Argentine military.
- Such exports should not be delayed when they can make no direct contribution to human rights violations.
- We are concerned that burgeoning short-term actions to restrict exports erode our reputation abroad as a reliable source of supply, and thereby damage our long-term export position, our balance of payments, the dollar, and U.S. job opportunities.
- U.S. businessmen are generally willing to sacrifice export sales to foreign policy considerations when necessary. But, they have little incentive to continue to make the effort to export if the rules of the game are unclear or inconsistent.
- They are particularly disheartened when a foreign purchase is held up for what appears to them to be less than compelling reasons, which tend only to divert exports to our competitors, thereby vitiating the practical effect of our sanctions.

H

H believes that we should approve the non-munitions list items, but not any of the items on the munitions control list. H believes that some consistent line has to be found in

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defending our policy before individual Congressional requests for exceptions. If one exception is made to the policy of no sales from the munition control list, we will find ourselves faced with a series of individual decisions with no acceptable rationale.

HA

HA believes that approval of the ambulance aircraft is justified, as medical equipment and the air traffic control radar, because it involves a previously issued license and will be used to control civilian aircraft. HA believes that the other licenses should be denied for the following reasons:

- The "safety-related" category does not offer a meaningful basis for justifying approval of the aircraft spare parts and support equipment. These items cannot be distinguished on that basis, from engines, wings, fuselage and other essential aircraft parts which we have refused to approve and which are not being forwarded for your decision in this memorandum.
- The consignees perform internal security functions, involving serious human rights violations, including the systematic torture and summary execution of political prisoners. Therefore, export of the items would be contrary to point six of PD-30, absent exceptional circumstances.
- The legislative history of Section 620B of the Foreign Service Assistance Act indicates that Congress intended that munitions list exports to Argentina be permitted to occur before the statutory cut-off date of October 1, 1978, only if human rights progress has occurred.
- Our perception today is that the human rights situation is even worse than we thought in June. After the end of the World Cup, disappearances increased. [REDACTED] and our own Embassy report that at least 500 acknowledged detainees beyond the 3,400 admitted by the Argentine Government are being held in military camps.

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-- Our message to the Argentines has been that progress in improving human rights situation would permit us to respond by permitting some licenses to be approved. There has been no progress. There should be no approvals, other than special exceptions for the medical and air traffic control equipment.

S/P

S/P believes that exports to the Argentine military fall under point six of PD-30. S/P also believes that we may exacerbate our problems with U.S. exporters and their Congressman if we approve a few cases while continuing to hold up the bulk of them and that we may antagonize human rights activists on the Hill, as well. (The latter problem would be especially acute if we approve munitions list items.)

S/P could support, under the "exceptional circumstances" language of PD-30, the ambulance aircraft on humanitarian grounds and the air traffic control radar, since it would control both military and civilian aircraft.

S/P likes ARA's definition of safety-related items as those which enhance the safety of the general public, but doubts that the aircraft spare parts and supporting equipment at issue here, would meet that test except in very hypothetical circumstances. Thus, S/P would deny these licenses.

RECOMMENDATIONS:

Commerce Cases

1) Approve the seven ambulance aircraft for the Argentine armed forces. (ARA, EB, H, and HA recommend approval. S/P could support approval.)

Approve _____ Disapprove _____

2) Approve the miscellaneous spare parts and support equipment for civilian type aircraft operated by the Argentine armed forces. (ARA, EB, and H recommend approval. HA and S/P recommend disapproval.)

Approve _____ Disapprove _____

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Munitions List Cases

3) Approve the miscellaneous spare parts and support equipment for military aircraft operated by the Argentine armed forces. (ARA, EB, and PM recommend approval. H, HA, and S/P recommend disapproval.)

Approve _____ Disapprove _____

4) Air Traffic Control Radar (ARA, EB, HA and PM recommend approval. S/P could support approval. H recommends disapproval.)

Approve _____ Disapprove _____

Drafted by: HA:SBCohen:bdr
08/11/78:21384

Clearances: H:DBennet *HC*
PM:AKorchanek *AK*
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